

SENATE BILL 3422

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 40,
Chapter 32, relative to the expunction of criminal
records after a certain period of time.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-32-101, is amended by adding
the following new subsection:

(g)

(1) For purpose of this subsection (g), “nonviolent” offense means the
offense:

(A) Did not involve the use of a firearm;

(B) Is not a sex offense for which the offender is required to
register as a sexual offender or violent sexual offender under chapter 39,
part 2 of this title;

(C) Does not have as an element the use, attempted use, or
threatened use of physical force against the person or property of
another; and

(D) Is not a felony offense that, by its nature, involves a
substantial risk that physical force against the person or property of
another may be used in the course of committing the offense.

(2) Notwithstanding the provisions of this section, effective July 1, 2012,
a person is eligible to file a petition for expunction of that person’s public records
involving a criminal offense if:

(A) At the time of filing, the person had never been convicted of any criminal offense, including federal offenses and offenses in other states, other than nonviolent offenses;

(B) The person has fulfilled all requirements of the sentence of the court in which the individual was convicted of the nonviolent offense for which the petitioner seeks expunction, including:

(i) Payment of all fines, restitution, or other assessments;

(ii) Completion of any term of imprisonment;

(iii) Meeting all conditions of supervised or unsupervised release; and

(iv) If so required by the conditions of the sentence, remaining free from dependency on or abuse of alcohol or a controlled substance for a period of not less than one (1) year;

(C) At least twenty (20) years have elapsed between the time the petitioner completed all requirements for the offense for which expungement is sought and the filing of the petition; and

(D) During the period specified in subdivision (v), the petitioner has not been convicted of any felony offense.

(3) A person seeking expungement shall petition the court in the which the petitioner was convicted of the offense for which expungement is sought. Upon filing of the petition, the clerk shall serve it on the district attorney general for that judicial district. Not later than sixty (60) days after service of the petition, the district attorney may submit recommendations to the court and provide a copy of such recommendations to the petitioner.

(4) Both the petitioner and the district attorney general may file evidence with the court relating to the petition.

(5) In making a decision on the petition, the court shall consider all evidence and weigh the interests of the petitioner against the best interests of justice and public safety.

(6) Unless the court determines that evidence presented to it demonstrates that the best interests of public safety and justice require the petition be denied, the court shall grant the petition if the petitioner meets the criteria established in subdivision (g)(2) of this subsection.

(7) If the petition is denied, the petitioner may refile it in three (3) years from the date of denial.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.